

### **REMARKS**

Claim 1 remains in the application and is in independent form. Claims 2-11 have been cancelled and new claims 12-13 have been added.

Claims 1 and 3-11 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 4,568,123 to Yasui et al. Additionally, claims 1 and 2 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,110,185 to Schmutz et al.

In response, Applicant has amended independent claim 1 to set forth: An automotive seat assembly comprising; a seat cushion, a seat back having top and bottom portions, a seat frame for supporting the seat cushion and the seat back, and a head restraint mounted to said the frame by posts and capable of being moved between a deployed position and a retracted position. Each of the posts has a plurality of notches. The head restraint comprises a control mechanism disposed within the head restraint for moving the head restraint between the deployed position and the retracted position. The control mechanism comprising a housing and a shaft pivotally mounted on the housing. **The shaft being positioned and configured to engage the notches of each of the posts preventing movement of the head restraint and upon rotation of the shaft, the shaft becomes spaced from the posts enabling movement of the head restraint.** A biasing device disposed between the posts and the housing for continuously biasing the head restraint towards the deployed position.

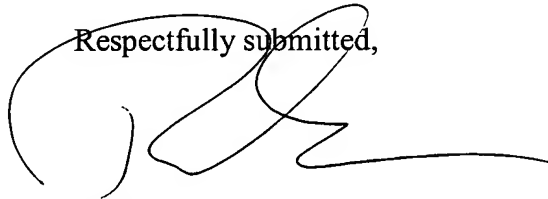
Independent claim 1, as amended, clearly distinguishes Applicant's invention over the prior art because neither of the two references cited disclose, teach or suggest a single shaft that is positioned and configured to engage both posts to prevent movement of the head restraint, and upon rotation, allow movement thereof. The '123 patent to Yasui et al. discloses a device, or control mechanism, that operates against only one of the two posts. The Examiner even acknowledges that the shaft 22 engages only one of the plurality of notches in one of the posts to prevent movement of the head restraint.

The '185 patent to Schmutz et al. show two separate devices, or control mechanisms, acting independently against the two separate posts to enable movement of the head restraint. Schmutz et al. clearly does not disclose a shaft of the control mechanism positioned and configured to engage each of the posts to prevent and enable movement of the head restraint.

Thus, amended claim 1 which sets forth a single device, shaft of the control mechanism, that acts against each of the posts to enable movement of the head restraint, is clearly patentable over the cited art.

Accordingly, it is believed that the application is in condition for more favorable consideration and Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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